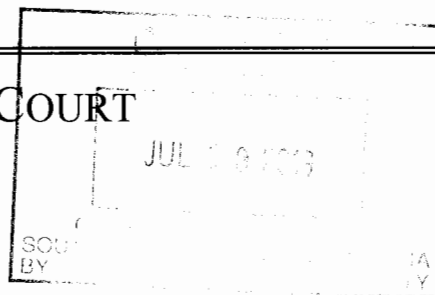


UNITED STATES DISTRICT COURT

for the
Southern District of California

In the Matter of the Search of

(Briefly describe the property to be searched
or identify the person by name and address)GPS Tracking Device with SIM Card IMEI number
359857080876394

Case No.

19MJ3187

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A, incorporated herein by reference.

located in the Southern District of California, there is now concealed (identify the person or describe the property to be seized):

See Attachment B, incorporated herein by reference

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
21 USC 952, 960, 963	Importation of a Controlled Substance; Conspiracy to commit same

The application is based on these facts:

See attached Affidavit of Special Agent Paul Mello

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Special Agent Paul Mello, HSI

Printed name and title

Sworn to before me and signed in my presence.

Date: 7/30/19

City and state: San Diego, CA

Judge's signature

Hon. Linda Lopez, U.S. Magistrate Judge

Printed name and title

1 **AFFIDAVIT IN SUPPORT OF SEARCH WARRANT**

2 I, Special Agent Paul Mello, Homeland Security Investigations (HSI), being duly
3 sworn, hereby state as follows:

4 **INTRODUCTION**

5 1. This affidavit is made in support of an application for a warrant to search a
6 GPS Tracking Device with SIM Card IMEI number 359857080876394, as described in
7 Attachment A (the “**Target Device**”), and seize evidence of violations of federal law,
8 namely 21 U.S.C. §§ 952, 960 and 963, as more particularly described in Attachment B.
9 This search supports an investigation and prosecution of Saul LEAL (“LEAL”), who is
10 charged with committing one or more of the crimes mentioned above. A factual
11 explanation supporting probable cause follows.

12 2. The **Target Device** was found attached to a 2000 Nissan Xterra that LEAL
13 drove into the United States on April 16, 2019 and that was found to contain
14 methamphetamine and cocaine. The **Target Device** is currently in the possession of
15 Homeland Security Investigations, 2255 Niels Bohr Court, San Diego, CA 92154, within
16 the Southern District of California.

17 3. Based on the information below, there is probable cause to believe that a
18 search of **Target Device** will produce evidence of the aforementioned crimes, as described
19 in Attachment B.

20 4. The information contained in this affidavit is based upon my experience and
21 training, and consultation with other federal, state, and local law enforcement agents.
22 Because this affidavit is made for the limited purpose of obtaining a search warrant for the
23 **Target Device**, it does not contain all of the information known by me or other federal
24 agents regarding this investigation, but only contains those facts believed to be necessary
25 to establish probable cause.

26 //

27 //

28 //

EXPERIENCE AND TRAINING

1
2 5. I have been employed as a Special Agent with HSI since June 2018. I am
3 currently assigned to the San Ysidro Contraband Smuggling Group 3, which investigates
4 violations pertaining to illegal possession, transportation, and distribution of controlled
5 substances. I am also cross-designated by the Drug Enforcement Administration (DEA) to
6 conduct narcotics investigations and to make arrests based on violations of Title 21 of the
7 United States Code.

8 6. As part of my training to become a Special Agent, I completed a 27-week
9 course regarding criminal investigations at the Federal Law Enforcement Training Center
10 (FLETC) in Glynco, Georgia. I have attended and successfully completed the Criminal
11 Investigator Training Program and HSI Special Agent Training at the Federal Law
12 Enforcement Training Center in Brunswick, Georgia. I have also completed training at the
13 U.S. Border Patrol Academy in Artesia, New Mexico.

14 7. As a HSI Special Agent, my formal training consisted of six months of
15 residential instruction at the Federal Law Enforcement Training Center in Glynco, Georgia,
16 which included training related to narcotics and dangerous drugs. I also learned
17 fundamentals of how to conduct criminal investigations including, but not limited to,
18 gathering of evidence, preservation of a crime scene, and the use of electronic evidence. I
19 have participated in training programs related to controlled substances, including but not
20 limited to marijuana, cocaine, methamphetamine, and heroin. I have also received training
21 in the methods used by narcotics traffickers to import, distribute, package and conceal
22 controlled substances. I have participated in several narcotics investigations and executed
23 arrests for drug-related offenses, including possession with the intent to distribute,
24 transportation, and the importation of controlled substances. Additionally, through the
25 course of my duties as a Special Agent, I have discussed narcotics smuggling and
26 trafficking with other experienced narcotics investigators and received informal training
27 regarding illegal drug trends and methods of operation for multi-kilogram drug smuggling,
28 trafficking, and dealing in the San Diego area.

1 8. Based upon my training and experience and consultations with law
2 enforcement officers experienced in drug smuggling and trafficking investigations, and all
3 the facts and opinions set forth in this affidavit, I submit the following:

- 4 a. Drug smugglers and traffickers will use GPS devices because they are able to
5 actively monitor the progress of their illegal cargo while the conveyance is in
6 transit;
- 7 b. Drug smugglers and traffickers and their coconspirators will use GPS devices
8 because they can easily arrange and/or determine what time their illegal cargo
9 will arrive at predetermined locations;
- 10 c. Drug smugglers and traffickers will use GPS devices to direct drivers to
11 synchronize an exact drop off and/or pick up time of their illegal cargo;

12 9. Subscriber Identity Module (SIM) Cards, also known as subscriber identity
13 modules, are smart cards that store data on GSM cellular devices. Depending on the device,
14 such data can include user identity, location, phone numbers, network authorization data,
15 personal security keys, and IP addresses. Much of the evidence generated by a smuggler's
16 use of a GPS tracker would likely be stored on any SIM Card that has been utilized in
17 connection with that device.

18 10. Based upon my training and experience and consultations with law
19 enforcement officers experienced in drug smuggling and trafficking investigations, and all
20 the facts and opinions set forth in this affidavit, I know that GPS devices can and often do
21 contain electronic records, including location data and telephone numbers or identifying
22 information for individuals accessing GPS Devices directly or remotely through phones
23 and/or computers. This information can be stored within disks, memory cards, deleted data,
24 remnant data, slack space, and temporary or permanent files contained on or in the GPS
25 device. Specifically, I know based upon my training, education, and experience
26 investigating drug smuggling and trafficking conspiracies that searches of GPS devices
27 sometimes yields evidence:

- 28 a. tending to indicate efforts to import controlled substances from Mexico into

1 the United States, or possess and/or transport with the intent to distribute
2 controlled substances within the United States;

3 b. tending to identify coconspirators, criminal associates, or others involved in
4 importation of controlled substances from Mexico into the United States, or
5 possession and/or transportation with the intent to distribute controlled
6 substances within the United States;

7 c. tending to identify travel to or presence at locations involved in the
8 importation of controlled substances from Mexico into the United States, or
9 possession and/or transportation with the intent to distribute controlled
10 substances within the United States, such as stash houses, load houses, or
11 delivery points; and/or

12 d. tending to identify the user of, or persons with control over or access to, the
13 GPS device.

14 11. Based on my training and experience, and conversations with other law
15 enforcement officers who investigate drug smuggling and trafficking, I know that drug
16 conspiracies often require detailed and intricate planning to successfully evade detection.
17 Consequently, drug conspiracies often involve planning and coordination for several
18 months. This planning sometimes includes the use of GPS devices.

19 **FACTS SUPPORTING PROBABLE CAUSE**

20 12. On April 16, 2019, at approximately 5:50 PM, Saul LEAL entered the U.S.
21 from Mexico at the San Ysidro Port of Entry, San Ysidro, California. LEAL, a U.S Citizen,
22 was the driver, registered owner, and sole occupant of a 2000 Nissan Xterra bearing
23 California license 7FQB044. In primary inspection, LEAL told the Customs and Border
24 Protection Officer (CBPO) that he was going to work in Otay Mesa, and that he purchased
25 the vehicle two months ago. LEAL explained that he was the only one that drives the
26 vehicle. The CBPO inspected the vehicle with a density reader, which showed an
27 abnormally high reading. A Narcotics and Human Detection Dog alerted to spare tire.
28 LEAL and the vehicle were sent to secondary inspection. Subsequent inspection of the

1 vehicle resulted in the seizure of 55 packages, containing approximately 67.41 pounds
2 (30.58 kilos), of methamphetamine and 5 packages, containing 12.34 pounds (5.6 kilos),
3 of cocaine were found concealed in the spare tire, front seats, and both quarter panels.

4 13. Officers placed LEAL under arrest for violating Title 21 United States Code,
5 Sections 952 and 960, Unlawful Importation of a Controlled Substance.

6 14. LEAL was read his *Miranda* rights, and agreed to speak to agents without an
7 attorney present. According to LEAL, he recently replied to an advertisement on Facebook
8 soliciting people looking for work. LEAL stated that after sending the message he was
9 contacted by someone named "Tomas." LEAL stated Tomas brought him to meet someone
10 he called "Supervisor" and that they wanted him to bring candy and wallets with him into
11 the United States on his daily trips to work. LEAL stated in exchange for this service they
12 would give him a car, a cell phone and approximately 35 dollars per trip. LEAL stated he
13 was given the vehicle approximately 1-2 weeks ago. When agents confronted him with the
14 fact that he told CBPOs he has had the vehicle for two months he admitted to lying to them.
15 LEAL stated he lied to the CBPOs because he was scared and did not want them to think
16 he was doing something wrong.

17 15. LEAL stated that he has brought bags of candy and sometimes beer with him
18 in the past to make extra money. LEAL was initially reluctant to give details about Tomas
19 and Supervisor but eventually stated that he suspected them of being involved in narcotics
20 smuggling and admitted that Tomas offered to pay five thousand dollars if LEAL would
21 agree to smuggle money or people across the border, LEAL insisted that he refused the
22 offer. LEAL stated before being caught he had crossed with the vehicle about four times
23 and attempted to get the vehicle registered under his name, however the vehicle failed
24 smog.

25 16. LEAL stated he wanted to get the vehicle registered under his name as soon
26 as possible so that he would not be questioned as much when he crossed the border. LEAL
27 told agents after the car failed smog he dropped it off with Tomas who claimed to have
28 fixed it. LEAL stated Tomas sent him the location on the phone he was instructed to use

1 of where to meet with Tomas. LEAL stated that Tomas rode with him right up until the
2 San Ysidro Port of Entry. Before getting out of the car Tomas told LEAL that next time he
3 will not be with him, however there will be a GPS tracker in the car until Tomas and the
4 Supervisor can trust him. LEAL told agents he suspected that the car was loaded with
5 something illegal and even gave his credit card to his wife in case he was arrested.

6 17. The **Target Device** was discovered in the 2000 Nissan Xterra on July 19, 2019
7 during an inspection by the United States' vehicle expert witness. A defense investigator
8 was also present.

9 18. Based upon my experience and investigation in this case, I believe that LEAL,
10 as well as other persons as yet unknown, were involved in the importation of narcotics.
11 Based upon my experience and training, and in consultation with other law enforcement
12 officers experienced in narcotics trafficking investigations, and all the facts and opinions
13 set forth in this affidavit, I also believe LEAL and others used the **Target Device** to
14 coordinate with co-conspirators regarding the importation and delivery of the controlled
15 substances, and to otherwise further the conspiracy both inside and outside the United
16 States. There is also probable cause to believe that electronic records, including location
17 data and telephone numbers or identifying information for individuals accessing the **Target**
18 **Device** directly or remotely through phones and/or computers are stored in the memory of
19 the **Target Device**, which may identify other persons involved in drug-trafficking
20 activities.

21 19. I know that drug conspiracies require detailed and intricate planning to
22 successfully evade detection by law enforcement. In my professional training and
23 experience, this requires planning and coordination in the days and weeks and often months
24 prior to the event. Additionally, co-conspirators are often unaware of the subject's arrest
25 and will continue to attempt to communicate with the subject after the arrest to determine
26 the whereabouts of their valuable cargo. Based on my training and experience, individuals
27 such as LEAL will attempt to minimize the amount of time they were involved in their
28 smuggling activities and often times are actually involved for weeks and months longer

1 than they claimed to be involved. I respectfully request permission to search **Target**
2 **Device** for data beginning on February 1, 2019, up to and including his arrest date of April
3 17, 2019.

4 METHODOLOGY

5 20. It is not possible to determine, merely by knowing a GPS device's make,
6 model and serial number, the nature and types of services to which the device is subscribed
7 and the nature of the data stored on the device. GPS devices today can have functions such
8 as full address books and can be mini-computers. An increasing number of GPS devices
9 now allow users to access them remotely with computers or with a cellular phone and
10 remotely erase all of the data contained on the device. For that reason, the device may only
11 be powered in a secure environment. Many GPS devices do not have hard drives or hard
12 drive equivalents and store information in volatile memory within the device or in memory
13 cards inserted into the device. Current technology provides some solutions for acquiring
14 some of the data stored in some GPS device models using forensic hardware and software.
15 This process is time and labor intensive and may take weeks or longer.

16 21. Following the issuance of this warrant, I will collect the **Target Device** and
17 subject it to analysis. All forensic analysis of the data contained within the **Target Device**
18 and its memory cards will employ search protocols directed exclusively to the
19 identification and extraction of data within the scope of this warrant.

20 22. Based on the foregoing, identifying and extracting data subject to seizure
21 pursuant to this warrant may require a range of data analysis techniques, including manual
22 review, and, consequently, may take weeks or months. The personnel conducting the
23 identification and extraction of data will complete the analysis within 90 days, absent
24 further application to this court.

25 CONCLUSION


26 23. Based upon my experience, training, and consultation with other law
27 enforcement officers experienced in narcotics smuggling investigations, and all the facts
28 and opinions set forth in this affidavit, I believe there is probable cause to conclude that

1 the **Target Device** was used to facilitate the offense of importation of controlled
2 substances. The **Target Device** was likely used to facilitate the offense by transmitting
3 and storing data, which constitutes evidence of violations of 21 U.S.C. §§ 952, 960, and
4 963.

5 24. Because **Target Device** was seized immediately inside the vehicle during the
6 investigation of LEAL's smuggling activities and has been securely stored, there is also
7 probable cause to believe that evidence of the illegal activities committed by LEAL, as
8 described in Attachment B, continues to exist on the **Target Device**.

9 25. Therefore, I respectfully request that the Court issue a warrant authorizing
10 HSI Special Agents and/or other federal and state law enforcement officers specially
11 trained in digital evidence recovery, to search the **Target Device**, as described in
12 Attachment A, and seize the items listed in Attachment B, using the methodology described
13 above.

14 I swear the foregoing is true and correct to the best of my knowledge and belief.

15
16 
17 _____
18 Paul Mello
19 Special Agent
20 Homeland Security Investigations

21 SUBSCRIBED and SWORN to before me this 30 day of July, 2019.

22
23 
24 _____
25 The Honorable Linda Lopez
26 United States Magistrate Judge
27
28

ATTACHMENT A

PROPERTY TO BE SEARCHED

The property is to be searched is the GPS Tracking Device with a SIM Card with IMEI number 359857080876394, that was found in the circuit panel of a 2000 Nissan Xterra bearing California license plate 7FQB044 that LEAL drove into the United States on April 16, 2019 (the “**Target Device**”). The **Target Device** is currently in the possession of Homeland Security Investigations, which is located at 2255 Niels Bohr Court, San Diego, CA 92154, within the Southern District of California.

ATTACHMENT B**ITEMS TO BE SEIZED**

Authorization to search the **Target Device** described in **Attachment A** includes the search of SIM cards, disks, memory cards, deleted data, remnant data, slack space, and temporary or permanent files contained on or in the **Target Device** for evidence described below, between the dates of February 1, 2019 and April 17, 2019. The seizure and search of the **Target Device** shall follow the search methodology described in the affidavit submitted in support of the warrant.

The evidence to be seized from the **Target Device** will be location data and identifying information of individuals accessing the device, including telephone numbers and identifying information for phones and/or computers remotely accessing the device:

- a. tending to indicate efforts to import methamphetamine or some other controlled substances from Mexico into the United States;
- b. tending to identify coconspirators, criminal associates, or others involved in importation of methamphetamine or some other controlled substances from Mexico into the United States;
- c. tending to identify travel to or presence at locations involved in the importation of methamphetamine or some other controlled substances from Mexico into the United States; and/or
- d. tending to identify the user of, or persons with control over or access to, the **Target Device**;

which are evidence of violations of Title 21, United States Code, Sections 952, 960, and 963.